

ASSEMBLY BILL

No. 288

Introduced by Assembly Member Levine

February 11, 2013

An act to amend Sections 3106 and 3203 of, and to add Section 3203.5 to, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 288, as introduced, Levine. Oil and gas: hydraulic fracturing.

(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources (DOGGR) in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor (supervisor) supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding possible damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.

This bill would define “hydraulic fracturing” and require the operator of a well, at least 30 days prior to any hydraulic fracturing operations, to file with the supervisor or the district deputy a written notice of intention, as specified, to commence hydraulic fracturing. The bill would also prohibit any hydraulic fracturing operations until written approval is given by the supervisor or district deputy and would require the supervisor or district deputy to notify the operator of the approval or denial of the notice within 10 working days after the notice is submitted.

The bill would require the supervisor, upon approval of the notice, to immediately notify the appropriate regional water quality control board. The bill would provide that if hydraulic fracturing has not commenced within one year of receipt of the notice, that the notice shall be deemed canceled.

(2) Under existing law, the supervisor is required to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of these wells to utilize all methods and practices known to the oil industry for the purpose of increasing the recovery of underground hydrocarbons. Existing law provides that the grant in an oil and gas lease or contract to a lessee or operator of the right or power to explore for and remove all hydrocarbons from any lands in the state, absent a contrary provision, is deemed to allow the lessee or contractor, or the lessee's or contractor's successors or assigns, to do what a prudent operator using reasonable diligence would do, having in mind the best interests of the lessor, lessee, and the state in producing and removing hydrocarbons, including, but not limited to, the injection of air, gas, water, or other fluids into the productive strata, the application of pressure heat or other means for the reduction of viscosity of the hydrocarbons, the supplying of additional motive force, or the creating of enlarged or new channels for the underground movement of hydrocarbons into production wells, when these methods or processes employed have been approved by the supervisor. Existing law also provides that there is no legal duty upon the lessee or contractor, or the lessee's or contractor's successors or assigns, to conduct these operations.

This bill would repeal these provisions.

(3) Existing law requires the operator, before commencing the work of drilling an oil and gas well, to file a written notice of intention to commence drilling with the State Oil and Gas Supervisor or district deputy. Existing law prohibits any drilling until approval is given by the supervisor or district deputy and provides that the notice is deemed approved if the supervisor or the district deputy fails to give a written response to the notice within 10 working days from the date of receipt.

This bill would delete the provision stating that the failure to provide a written response to the notice within 10 working days is considered an approval of the notice, and instead require the supervisor or district deputy to notify the operator in writing of the approval or denial of the notice within 10 working days after the notice is received.

(4) Existing law imposes various fees on operators of oil and gas wells.

This bill would authorize DOGGR to establish a reasonable fee to be paid by the owner or operator for the costs incurred by the department for the regulation of hydraulic fracturing operations.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3106 of the Public Resources Code is amended to read:

3106. (a) The supervisor shall so supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, including pipelines not subject to regulation pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.

~~(b) The supervisor shall also supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize all methods and practices known to the oil industry for the purpose of increasing the ultimate recovery of underground hydrocarbons and which, in the opinion of the supervisor, are suitable for this purpose in each proposed case. To further the elimination of waste by increasing the recovery of underground hydrocarbons, it is hereby declared as a policy of this state that the grant in an oil and gas lease or contract to a lessee or operator of the right or power, in substance, to explore for and remove all hydrocarbons from any lands in the state, in the absence of an express provision to the contrary contained in the lease or contract, is deemed to allow the lessee or contractor, or the lessee's or contractor's successors or assigns, to do what a prudent operator using reasonable diligence would do, having in mind the best~~

1 interests of the lessor, lessee, and the state in producing and
2 removing hydrocarbons, including, but not limited to, the injection
3 of air, gas, water, or other fluids into the productive strata, the
4 application of pressure heat or other means for the reduction of
5 viscosity of the hydrocarbons, the supplying of additional motive
6 force, or the creating of enlarged or new channels for the
7 underground movement of hydrocarbons into production wells,
8 when these methods or processes employed have been approved
9 by the supervisor, except that nothing contained in this section
10 imposes a legal duty upon the lessee or contractor, or the lessee's
11 or contractor's successors or assigns, to conduct these operations.

12 (e)

13 (b) The supervisor may require an operator to implement a
14 monitoring program, designed to detect releases to the soil and
15 water, including both groundwater and surface water, for
16 aboveground oil production tanks and facilities.

17 (d)

18 (c) To best meet oil and gas needs in this state, the supervisor
19 shall administer this division so as to encourage the wise
20 development of oil and gas resources.

21 SEC. 2. Section 3203 of the Public Resources Code is amended
22 to read:

23 3203. (a) The operator of any well, before commencing the
24 work of drilling the well, shall file with the supervisor or the district
25 deputy a written notice of intention to commence drilling. Drilling
26 shall not commence until *written* approval is given by the
27 supervisor or the district deputy. ~~If the supervisor or the district~~
28 ~~deputy fails to give the operator written response to the notice~~
29 ~~within 10 working days from the date of receipt, that failure shall~~
30 ~~be considered as an approval of the notice and the notice, for the~~
31 ~~purposes and intents of this chapter, shall be deemed a written~~
32 ~~report of the supervisor. The supervisor or district deputy shall~~
33 ~~notify the operator of the approval or denial of the notice within~~
34 ~~10 working days after the notice is received.~~ If operations have
35 not commenced within one year of receipt of the notice, the notice
36 shall be deemed canceled. The notice shall contain the pertinent
37 data the supervisor requires on printed forms supplied by the
38 division or on other forms acceptable to the supervisor. The
39 supervisor may require other pertinent information to supplement
40 the notice.

(b) After the completion of any well, this section also applies as far as may be, to the deepening or redrilling of the well, any operation involving the plugging of the well, or any operations permanently altering in any manner the casing of the well. The number or designation of any well, and the number or designation specified for any well in a notice filed as required by this section, shall not be changed without first obtaining a written consent of the supervisor.

(c) If an operator has failed to comply with an order of the supervisor, the supervisor may deny approval of proposed well operations until the operator brings its existing well operations into compliance with the order. If an operator has failed to pay a civil penalty, remedy a violation that it is required to remedy to the satisfaction of the supervisor pursuant to an order issued under Section 3236.5, or to pay any charges assessed under Article 7 (commencing with Section 3400), the supervisor may deny approval to the operator's proposed well operations until the operator pays the civil penalty, remedies the violation to the satisfaction of the supervisor, or pays the charges assessed under Article 7 (commencing with Section 3400).

SEC. 3. Section 3203.5 is added to the Public Resources Code, to read:

3203.5. (a) For purposes of this division, "hydraulic fracturing" means a treatment used in stimulating a well that involves the pressurized injection of hydraulic fracturing fluid and proppants into an underground geologic formation in order to fracture the formation, thereby causing or enhancing, for the purposes of this division, the production of oil or gas from a well.

(b) The operator of a well approved under Section 3203, shall file with the supervisor or the district deputy a written notice of intention to commence hydraulic fracturing at least 30 days prior to any hydraulic fracturing operations. The notice shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor, and shall include sufficient information as to demonstrate that use of hydraulic fracturing will not present a threat to public health and safety. The supervisor may require other pertinent information to supplement the notice. Hydraulic fracturing shall not commence until written approval is given by the supervisor or district deputy.

- 1 (c) If hydraulic fracturing has not commenced within one year
2 of receipt of the notice, the notice shall be deemed canceled.
- 3 (d) The supervisor shall have 10 days to notify the operator of
4 approval or denial of the notice. In providing the duties as required
5 under subdivision (a) of Section 3106, the supervisor shall approve
6 a notice under this section only if the supervisor finds that the
7 operator has provided sufficient information as to demonstrate that
8 use of hydraulic fracturing will not present a threat to public health
9 and safety.
- 10 (e) Upon approval of a notice under this section, the supervisor
11 shall immediately notify the appropriate regional water quality
12 control board.
- 13 (f) The department may establish, by regulation, a reasonable
14 and appropriate fee to be paid by the owner or operator for the
15 costs incurred by the department in implementing this section.